IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.286 OF 2006

Commissioner of Central Excise, Belapur...Appellant

Versus

M/s. Mahalaxmi Dyeing & Printing (I)
Pvt. Ltd. .....Respondent

Mrs.N.V. Masurkar with Mr. S.M. Shah, Mr. Y.S. Bhate and Mr. H.P. Chaturvedi, for the Appellant.
Mr. Sujay Kantawala with Mr. Y.M. Rohira, for the Respondent.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED : 11TH OCTOBER 2007

P.C.

. The Respondent paid duty though its stenter was under seal/closure for 36 days and for this period they were not liable to pay duty. Respondent instead of asking for reimbursement adjusted the duty amount agaisnt subsequent dues. Abatement was subsequently granted. On these facts the learned Tribunal which was hearing the Appeal preferred by the Revenue against the order of the Commissioner chose not to interfere on the facts of that case.

2. In our opinion considering the facts as set out earlier this would not be a fit case for us to entertain the Appeal.

. The question of law is left open for consideration in an appropriate case. With the above observation Appeal disposed of.

(J.P. DEVADHAR, J.) (**F.I. REBELLO**, J)